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Attorneys for Plaintiffs, Catlin Underwriting Agencies, Limited

**UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA**

CATLIN UNDERWRITING AGENCIES,  
 LIMITED,

Plaintiff,

-vs.-

SAN DIEGO REFRIGERATED SERVICES,  
 INC. D/B/A HARBORSIDE D/B/A SAN  
 DIEGO TERMINALS, PLA-ART  
 INTERNATIONAL D/B/A SAN DIEGO  
 COLD STORAGE, SAN DIEGO COLD  
 STORAGE, INC., MIGUEL CUEVA A/K/A  
 MIGUEL TAMAYO, SERGIO  
 HERNANDEZ, MARCUS FOODS, INC.,  
 and DOES 1 through 100, Inclusive

Defendants.

Case No. 08-CV-0173 WQH (JMA)

**JOINT DISCOVERY PLAN**

**JOINT DISCOVERY PLAN**

The Parties, Catlin Underwriting Agencies Limited, San Diego Refrigerated Services, Inc.,  
 and Pla-Art International, Inc. d/b/a San Diego Cold Storage, Miguel Cuevas, and Marcus Foods  
 Co. represent to the Court that on May 23, 2008 they convened by telephone to participate in a

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1 Rule 26 (f) conference. As such, the Parties submit this Joint Discovery Plan, stating their views  
2 and proposals on the following items, as required under Rule 26(f)(3):

3 A. What changes should be made in the timing, form, or requirement for  
4 disclosures under Rule 26(a), including a statement of when initial  
5 disclosures were made or will be made;

6 **The Parties have no changes with respect to the above. The Court has set a deadline**  
7 **of June 10, 2008 for the Parties to file their initial Rule 26(a) disclosures.**

8 B. The subjects on which discovery may be needed, when discovery should be  
9 completed, and whether discovery should be conducted in phases or be  
10 limited to or focused on particular issues;

11 **This is a declaratory judgment action by Catlin and a corresponding Counterclaim**  
12 **by defendants San Diego Refrigerated Services, Inc. ("SDRS"), Pla-Art International, Inc.**  
13 **d/b/a San Diego Cold Storage ("SDCS") and Miguel Cuevas ("CUEVAS") in which it is**  
14 **disputed whether there is insurance coverage for these Defendants under Plaintiff Catlin**  
15 **Underwriting Agencies Limited's insurance policy no. LON7081-05 with respect to an**  
16 **underlying claim for loss and subsequent lawsuit filed by Marcus Foods styled *Marcus Foods***  
17 ***v. San Diego Cold Storage, Inc., Miguel Cueva, Sergio Hernandez and DOES 1-10* in the**  
18 **Superior Court of California, County of San Diego No. 37-200700066571-CU-CO-CTL (the**  
19 **"Underlying Suit").**

20 **The Parties agree that discovery in this declaratory judgment action should be**  
21 **conducted in phases and be limited initially to two issues: (1) whether or not Plaintiff has a**  
22 **duty to defend the Underlying Lawsuit, and (2) whether or not the terms and conditions for**  
23 **coverage under Plaintiff's policy, including notice provisions, were satisfied with respect to**  
24 **the Underlying Claim. The Parties agree that the fact discovery cut-off date for these issues**  
25

1 should be January 9, 2009, and the parties should have up to and including February 10,  
2 2009, to file any motions for summary judgment that such party deems appropriate, with the  
3 Court then designating the time for filing any responses and/or replies. This procedure  
4 would allow the parties to conduct discovery, if necessary, on the duty to indemnify and the  
5 Counterclaim of SDRS, SDCS and/or CUEVAS for Catlin's alleged bad faith claims  
6 handling practices and/or breach of contractual and fiduciary obligations after the Court  
7 rules on the motions for summary judgment on the initial two issues. The Parties believe  
8 that this initial discovery and dispositive motion schedule may save the Court and the  
9 Parties time and money.  
10

11 C. Any issues about disclosure or discovery of electronically stored  
12 information, including the form or forms in which it should be produced;  
13

14 **None at this time.**

15 D. Any issues about claims of privilege or of protection as trial-preparation  
16 materials, including – if the parties agree on a procedure to assert these  
17 claims after production – whether to ask the court to include their  
18 agreement in an order;

19 **None at this time.**

20 E. What changes should be made in the limitations on discovery imposed  
21 under these rules or by local rule, and what other limitations should be  
22 imposed; and  
23

24 **None at this time.**  
25  
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F. Any other orders the court should issue under Rule 26(c) or under Rule 16(b) and (c).

**None at this time.**

Dated: June 10, 2008

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By: /s/Jack C. Hsu  
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THE LAW OFFICES OF KEVIN GERRY

By: /s/Kevin Gerry  
KEVIN GERRY  
Attorney for Defendant, MARCUS FOODS CO.

**CERTIFICATE OF SERVICE**

Jack C. Hsu, an attorney, does hereby certify service as to the foregoing Joint Discovery Plan was accomplished pursuant to facsimile and regular first-class mail postage prepaid to counsel of record on this pursuant to ECF as to Filing Users and as to any party who is not a Filing User or represented by a Filing User on this 10<sup>th</sup> day of June, 2008.

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